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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,509	06/11/2001	Michael L. Haile	14073	4071

7590 11/26/2002
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Walnut Creek, CA 94596

EXAMINER

RAJGURU, UMAKANT K

ART UNIT	PAPER NUMBER
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1711

6

DATE MAILED: 11/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on Aug 06, 2002 (paper no 5)
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 17-32 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 17-32 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

1. An amendment (paper no. 5) has been filed on August 6, 2002.
2. Now claims 17-32 are being examined.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 30 is indefinite (like earlier claim 14) in reciting "consisting essentially of" instead of "consisting of".

5. Claim 25 is objected to because of the following informalities:

Word "of" in line 2 should be deleted. Appropriate correction is required.

6. Rejection of claims 1, 6, 7 and 14-15 under 35 USC 112, second paragraph (see item 2 of prior Office action, paper no. 3) is now moot since those claims have been cancelled.
7. Claims 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmitt J (USP 6071325).
8. Claims 23-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmitt J (USP 6071325) as applied to claim 17 above, and further in view of Roe et al (USP 4751259) and West et al (USP 5459181).

These rejections are now applied to above claims and are incorporated here by reference from prior Office action, paper no. 3, items 4 & 5

9. Applicant's arguments filed August 6, 2002 (paper no. 5) have been fully considered but they are not persuasive.

On page 6 of above paper, the applicant states that the methods and compositions of Schmitt and Roe are different from tackification. Examiner disagrees. It is the examiner's position that compositions of prior art and the one that is instantly claimed are broadly the same, both using similar material/s useful for binding.

Applicant's next argument on page 6 that tackifier of Schmitt would be a toxic material is not acceptable because Schmitt uses caustic at as low as 2% (see Schmitt, col. 5, line 32) while instant invention needs crosslinking agent at as high as 15% (see instant claims 19 and 27).

Roe and West are secondary references relied upon for their specific teachings of use of borax, surfactant and fibers. Motivation to combine these teachings with that of Schmitt is presented earlier. Applicants remarks about Roe and West therefore are not persuasive.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to U.K. Rajguru whose telephone number is 703-308-3224. The examiner can normally be reached on Monday-Friday from 9:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 703-308-2462. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


U. K. Rajguru/mn
November 22, 2002


James J. Seidleck
Supervisory Patent Examiner
Technology Center 1700